

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED

January 15, 2015

In re N. S. A. MCCARTHY, Minor.

No. 318855

Oakland Circuit Court

Family Division

LC No. 07-739244-NA

AFTER REMAND

Before: OWENS, P.J., and JANSEN and O'CONNELL, JJ.

PER CURIAM.

This matter returns to us after remand for the trial court to make brief, definite, and pertinent conclusions of law regarding the statutory grounds for termination. Respondent-mother appeals by leave granted the trial court's order terminating her parental rights to the minor child, NSA, pursuant to MCL 712a.19b(3)(c)(i), (g), and (j). We affirm.

"To terminate parental rights, a trial court must find by clear and convincing evidence that at least one statutory ground under MCL 712A.19b(3) has been established." *In re Moss*, 301 Mich App 76, 80; 836 NW2d 182 (2013). As stated in our previous opinion, the trial court made sufficient findings of fact regarding the statutory grounds for termination, but failed to make adequate conclusions of law. On remand, the trial court concluded that the statutory grounds for termination that were supported by clear and convincing evidence were MCL 712a.19b(c)(i), (g), and (j). Specifically, the trial court concluded that the conditions that led to adjudication continued to exist and there is no reasonable likelihood that they would be rectified within a reasonable time considering the child's age, see MCL 712a.19b(c)(i), that respondent is unable to provide proper care and custody for the child, see MCL 712a.19b(g), and that the child would be subject to harm if returned to respondent's care based on respondent's lifestyle, see MCL 712a.19b(j).

Although the trial court did not specifically identify which factual findings supported each statutory ground for termination, it is clear from the record that the factual findings articulated by the trial court establish by clear and convincing evidence statutory grounds for termination under MCL 712a.19b(c)(i), (g), and (j). For example, as discussed in our previous opinion, the trial court acknowledged that respondent had not made significant improvement.

Respondent had not complied with the parent-agency agreement, and she discontinued counseling without court approval or communication. Further, she did not have a plan to return to Michigan to reunify with the child. Everything else was a priority over the child, and when respondent did visit the child, it was only for a few hours. Respondent also did not comply with the requirement to obtain a home assessment from the Georgia authorities, where she was living. Finally, respondent was not willing to actively participate in, or complete, mental health treatment. We conclude that these findings establish by clear and convincing evidence statutory grounds for termination under MCL 712a.19b(c)(i), (g), and (j).

Respondent also argues that termination was not in the child's best interests. "Once a statutory ground for termination has been proven, the trial court must find that termination is in the child's best interests before it can terminate parental rights." *In re Olive/Metts*, 297 Mich App 35, 40; 823 NW2d 144 (2012). A trial court's finding that termination is in a child's best interests, which we review for clear error, must be supported by a preponderance of the evidence. *In re Moss*, 301 Mich App at 90.

A preponderance of the evidence established that the child had been in foster care for over two years. Respondent's relationship with the child had deteriorated due to a lack of personal contact. Respondent was given a second opportunity for reunification with the child after the trial court declined to terminate respondent's parental rights at the first termination proceeding, but respondent failed to take advantage of that opportunity. The child is now a teenager exhibiting behavioral issues and there is no evidence suggesting that respondent is prepared to address those issues, or evidence that respondent would be in any position to provide the safe, stable, and secure environment that the child requires in the foreseeable future. Therefore, the trial court did not clearly err in finding that termination of respondent's parental rights was in the child's best interests.

Finally, with respect to respondent's remaining argument that she was deprived of procedural due process by the use of the Interstate Compact on the Placement of Children (ICPC), MCL 3.711 *et seq.*, to preclude her from successfully obtaining a home assessment, we conclude that respondent failed to demonstrate plain error that affected her substantial rights, as fully discussed in our previous opinion.

Affirmed.

/s/ Donald S. Owens
/s/ Kathleen Jansen
/s/ Peter D. O'Connell